



## Senate

General Assembly

**File No. 679**

February Session, 2016

Substitute Senate Bill No. 399

*Senate, April 19, 2016*

The Committee on Finance, Revenue and Bonding reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING RESEARCH AND DEVELOPMENT TAX CREDITS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-217zz of the 2016 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective January 1, 2017, and applicable to income years commencing on or*  
4 *after January 1, 2017*):

5 (a) Notwithstanding any other provision of law, and except as  
6 otherwise provided in subsection (b) of this section, the amount of tax  
7 credit or credits otherwise allowable against the tax imposed under  
8 this chapter shall be as follows:

9 (1) For any income year commencing on or after January 1, 2002,  
10 and prior to January 1, 2015, the amount of tax credit or credits  
11 otherwise allowable shall not exceed seventy per cent of the amount of  
12 tax due from such taxpayer under this chapter with respect to any such

13 income year of the taxpayer prior to the application of such credit or  
14 credits;

15 (2) For any income year commencing on or after January 1, 2015, the  
16 amount of tax credit or credits otherwise allowable shall not exceed  
17 fifty and one one-hundredths per cent of the amount of tax due from  
18 such taxpayer under this chapter with respect to any such income year  
19 of the taxpayer prior to the application of such credit or credits;

20 (3) Notwithstanding the provisions of subdivision (2) of this  
21 subsection, any taxpayer that possesses excess credits may utilize the  
22 excess credits as follows:

23 (A) For income years commencing on or after January 1, 2016, and  
24 prior to January 1, 2017, the aggregate amount of tax credits and excess  
25 credits allowable shall not exceed fifty-five per cent of the amount of  
26 tax due from such taxpayer under this chapter with respect to any such  
27 income year of the taxpayer prior to the application of such credit or  
28 credits;

29 (B) For income years commencing on or after January 1, 2017, and  
30 prior to January 1, 2018, the aggregate amount of tax credits and excess  
31 credits allowable shall not exceed sixty per cent of the amount of tax  
32 due from such taxpayer under this chapter with respect to any such  
33 income year of the taxpayer prior to the application of such credit or  
34 credits;

35 (C) For income years commencing on or after January 1, 2018, and  
36 prior to January 1, 2019, the aggregate amount of tax credits and excess  
37 credits allowable shall not exceed sixty-five per cent of the amount of  
38 tax due from such taxpayer under this chapter with respect to any such  
39 income year of the taxpayer prior to the application of such credit or  
40 credits;

41 (D) For income years commencing on or after January 1, 2019, the  
42 aggregate amount of tax credits and excess credits allowable shall not  
43 exceed seventy per cent of the amount of tax due from such taxpayer

44 under this chapter with respect to any such income year of the  
45 taxpayer prior to the application of such credit or credits;

46 (4) Notwithstanding the provisions of subdivisions (2) and (3) of  
47 this subsection, for income years commencing on or after January 1,  
48 2017, and prior to January 1, 2018, the amount of tax credit or credits  
49 otherwise allowable against the tax imposed under this chapter for  
50 such income year may exceed the amount specified in said  
51 subdivisions to the extent the amount of credits otherwise allowable  
52 under sections 12-217j and 12-217n exceed the amount specified in said  
53 subdivisions, provided in no event may the amount of tax credit or  
54 credits otherwise allowable against the tax imposed under this chapter  
55 for such income year exceed sixty-five per cent of the amount of tax  
56 due from such taxpayer under this chapter with respect to such income  
57 year of the taxpayer prior to the application of such credit or credits;

58 (5) Notwithstanding the provisions of subdivisions (2) and (3) of  
59 this subsection, for income years commencing on January 1, 2018, and  
60 prior to January 1, 2019, the amount of tax credit or credits otherwise  
61 allowable against the tax imposed under this chapter for such income  
62 year may exceed the amount specified in said subdivisions to the  
63 extent the amount of credits otherwise allowable under sections 12-  
64 217j and 12-217n exceed the amount specified in said subdivisions,  
65 provided in no event may the amount of tax credit or credits otherwise  
66 allowable against the tax imposed under this chapter for such income  
67 year exceed seventy per cent of the amount of tax due from such  
68 taxpayer under this chapter with respect to such income year of the  
69 taxpayer prior to the application of such credit or credits;

70 [(4)] (6) For purposes of this subsection, "excess credits" means any  
71 remaining credits available under section 12-217j, 12-217n or 32-9t after  
72 tax credits are utilized in accordance with subdivision (2) of this  
73 subsection.

74 (b) (1) For an income year commencing on or after January 1, 2011,  
75 and prior to January 1, 2013, the amount of tax credit or credits  
76 otherwise allowable against the tax imposed under this chapter for

77 such income year may exceed the amount specified in subsection (a) of  
 78 this section only by the amount computed under subparagraph (A) of  
 79 subdivision (2) of this subsection, provided in no event may the  
 80 amount of tax credit or credits otherwise allowable against the tax  
 81 imposed under this chapter for such income year exceed one hundred  
 82 per cent of the amount of tax due from such taxpayer under this  
 83 chapter with respect to such income year of the taxpayer prior to the  
 84 application of such credit or credits.

85 (2) (A) The taxpayer's average monthly net employee gain for an  
 86 income year shall be multiplied by six thousand dollars.

87 (B) The taxpayer's average monthly net employee gain for an  
 88 income year shall be computed as follows: For each month in the  
 89 taxpayer's income year, the taxpayer shall subtract from the number of  
 90 its employees in this state on the last day of such month the number of  
 91 its employees in this state on the first day of its income year. The  
 92 taxpayer shall total the differences for the twelve months in such  
 93 income year, and such total, when divided by twelve, shall be the  
 94 taxpayer's average monthly net employee gain for the income year. For  
 95 purposes of this computation, only employees who are required to  
 96 work at least thirty-five hours per week and only employees who were  
 97 not employed in this state by a related person, as defined in section 12-  
 98 217ii, within the twelve months prior to the first day of the income  
 99 year may be taken into account in computing the number of  
 100 employees.

101 (C) If the taxpayer's average monthly net employee gain is zero or  
 102 less than zero, the taxpayer may not exceed the seventy per cent limit  
 103 imposed under subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017, and applicable to income years commencing on or after January 1, 2017</i>	12-217zz

**CE**      *Joint Favorable Subst. C/R*

FIN

**FIN**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### ***OFA Fiscal Note***

#### ***State Impact:***

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Department of Revenue Services	GF - Revenue Loss	500,000	2.0 million

Note: GF=General Fund

***Municipal Impact:*** None

#### ***Explanation***

The bill accelerates the phase-up of the tax credit cap for the Research & Development and Research & Experimental tax credits, which results in a revenue loss of \$500,000 in FY 17 and \$2.0 million in FY 18.

#### ***The Out Years***

The out years impact of the bill is limited to a \$1.5 million revenue loss in FY 19 only, after which both current law and the bill's provisions reach the maximum 70% tax credit utilization limit.

**OLR Bill Analysis****sSB 399*****AN ACT CONCERNING RESEARCH AND DEVELOPMENT TAX CREDITS.*****SUMMARY:**

The law limits the extent to which corporations can use tax credits to reduce the amount of taxes they owe. By law, they cannot use tax credits to reduce their corporation tax liability by more than 50.01% in any income year, except that businesses holding certain types of credits are subject to a higher tax credit cap.

This bill establishes a separate, higher tax credit cap for corporation business taxpayers whose total research and development (R&D) and research and experimental (R&E) tax credits exceed the applicable statutory cap. These taxpayers may reduce their tax liability, to the extent that their total R&D and R&E tax credits exceed the applicable cap, by up to (1) 65% in 2017 and (2) 70% in 2018.

Existing law, unchanged by the bill, already allows corporations holding R&E and R&D tax credits to exceed the 50.01% tax credit cap. Specifically, the law allows corporations with any amount of R&E, R&D, or Urban and Industrial Site Reinvestment (UISR) tax credits ("excess credits") to use their total credits and excess credits to reduce their tax liability by up to (1) 55% in 2016, (2) 60% in 2017, (3) 65% in 2018, and (4) 70% in 2019. Under the bill, corporations whose total R&D and R&E tax credits exceed this cap can reduce their tax liability by an additional 5% in 2017 and 2018.

EFFECTIVE DATE: January 1, 2017, and applicable to income years beginning on or after that date.

**BACKGROUND**

**Related Bill**

sHB 5046, favorably reported by the Finance, Revenue and Bonding Committee, contains identical provisions.

**R&D Tax Credit**

The R&D credit generally applies to R&D spending a business incurs in the state to develop or improve a product and qualifying research payments it makes to nonprofit organizations (i.e., nonincremental R&D spending) (CGS § 12-217n). The tentative credit amount generally ranges from 1% for spending of up to \$50 million to 6% for spending over \$200 million, except for eligible small businesses and certain companies headquartered in an enterprise zone.

**R&E Tax Credits**

The R&E tax credit applies to R&D spending a business incurs in Connecticut that exceeds the amount it spent during the preceding income year (i.e., incremental R&D spending) (CGS § 12-217j). Eligible businesses receive a credit equal to 20% of their incremental R&D spending.

**UISR Credits**

UISR credits are available to businesses investing in projects that will generate enough sales, personal income, and other tax revenue to recoup the foregone business tax revenue (CGS §32-9t). Specifically, the credits are available for (1) remediating and developing contaminated property anywhere in the state and (2) developing property for a wide range of business uses in distressed municipalities, targeted investment communities, or municipalities with a population of over 100,000.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute Change of Reference  
Yea 20 Nay 0 (03/17/2016)

Finance, Revenue and Bonding Committee



Joint Favorable Substitute

Yea     48     Nay   0     (04/05/2016)